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Corporation

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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May 26, 1993

Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 Street, N.W., Room 222  
Washington, D.C. 20554

Re: CC Docket 93-23 / RM-7931

Dear Ms. Searcy:

Enclosed is the original and certified copies of GTE Spacenet

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

MAY 27 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 25.131	)	
of the Commission's Rules and	)	CC Docket No. 93-23
Regulations to Eliminate the	)	RM-7931
Licensing Requirement for Certain	)	
International Receive-Only Earth	)	
Stations	)	

**REPLY COMMENTS OF GTE SPACENET CORPORATION**

GTE Spacenet Corporation, ("GTE Spacenet") herein submits its Reply Comments to the above-referenced rulemaking proceeding and respectfully states the following:

**Introduction**

GTE Spacenet filed initial Comments to this Notice of Proposed Rulemaking ("NPRM") wherein it recommended that the Commission not repeal Section 25.131 (j) in its entirety until such time as it could ensure that one-way services into the U.S. could be deployed in a manner consistent with the Commission's established transborder policy.<sup>1</sup> In making this recommendation, GTE Spacenet was concerned that ANIK or MORELOS satellites could, without any regulatory action aside from INTELSAT Article XIV coordination, be used in lieu of U.S. domestic satellites for a variety of one-way services into the U.S. from hubs located in those transborder jurisdictions. This same transborder freedom may not exist with respect to the use of U.S. domsats for similar types of one-way services into Mexico or Canada due to the regulatory requirements of the respective governmental authorities in those countries. For reasons discussed below, GTE Spacenet stands by its recommendation with the potential modification discussed herein, until such time as (1) U.S. domsats are afforded the same unrestricted opportunities in Canada and Mexico, or (2) the Commission can negotiate with Canadian and Mexican authorities to ensure that their respective satellite systems are not used in a manner inconsistent with existing transborder policy.

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<sup>1</sup> See, Comments of GTE Spacenet Corporation, filed May 12, 1993.

**The Home Satellite Dish ("HSD") Market Is Different From The Business Services Market That GTE Spacenet Is Concerned With In Respect To Transborder Policy**

Virtually all commenting parties support the full deregulation of international receive-only earth stations, though the majority of commenters focused only on the television receive-only ("TVRO") or home satellite dish ("HSD") antennas that are used by the general public for the reception of video programming services.<sup>2</sup>

GTE Spacenet agrees with these commenters that most HSD owners are not even aware of FCC Section 25.131. GTE Spacenet also submits that the FCC would find it a formidable, and perhaps even impossible, task to enforce this regulation in the international TVRO or HSD environment.

GTE Spacenet submits, however, that a very competitive market for one-way business services (i.e., data, business television), could potentially exist in the use of space segment capacity if the ANIK and MORELOS systems are allowed to market these business services directly to U.S. customers in competition with U.S. domsats. Such a condition would not appear to be consistent with U.S. transborder policy, and does not appear warranted if U.S. domsats are not allowed to market their capacity for similar services within Canada or Mexico. GTE Spacenet suggests that the regulation of receive-only antennas could exclude direct-to-home video programming, but for the time being, continue to apply to business services until adherence to U.S. transborder policy is assured, or negotiations with foreign authorities afford U.S. domsats the same privileges within their respective jurisdictions. GTE Spacenet therefore recommends that the Section 25.131 be modified accordingly to exclude TVRO service, but not deleted in its entirety.

**Other Commenters Support Negotiations With Neighboring Countries To Ensure Equivalent Treatment**

While endorsing the deregulation of all receive-only earth stations, other commenters allude to potential inequities in the transborder environment, and urge the Commission to ensure equivalent regulatory treatment. Direct TV, Inc., on page 6 of its Comments urges the Commission "to work with its regulatory counterparts in neighboring countries to ensure that U.S. satellite operators are granted equivalent access to these countries' markets."<sup>3</sup> Similarly, SBCA supports deregulation in the U.S., but remains "very concerned over the lack of access American satellite operators have to the Canadian and Mexican markets. Canadian and Mexican telecommunications regulations effectively bar U.S. satellite operators from doing business within these countries." While the focus of these commenters is video programming within the TVRO market, the impetus for opening bilateral negotiations with Canada and Mexico is clear.

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<sup>2</sup> See, for example, Comments of Direct TV, Inc., p. 4, fnote 9, and Satellite Broadcasting and Communications Association ("SBCA"), p. 6.

<sup>3</sup> See, Comments of Direct TV, p. 6

GTE Spacenet supports the recommendations of these commenters to commence negotiations with Canada and Mexico to ensure equitable regulatory treatment. While acknowledging that the video programming market has somewhat different concerns than the business services market, GTE Spacenet believes that all transborder policy concerns could be addressed in these negotiations.

**COMSAT's Statement Regarding Transborder Deregulation Is In Need Of Clarification**

On page 6, of its Comments, COMSAT states "Maintaining a licensing requirement in the transborder context would force users into service arrangements involving unnecessary duplication of facilities. Domestic satellite operators would have an unwarranted advantage in that case by being able to retransmit foreign-originated signals to unregulated domestic receive-only earth stations whereas users desiring to receive foreign programming from international satellite operators would have to be licensed individually".

GTE Spacenet is uncertain of COMSAT's argument here. Under current U.S. transborder policy, U.S. domestic satellite operators cannot uplink from foreign locations into the U.S., but can only provide outbound transmissions that are incidental or peripheral to existing U.S. domestic transmissions. This restriction applies to all Latin American/Caribbean locations. While this policy does not include inbound traffic from Canada or Mexico, the current rule requires licensing for all international receptions -- whether carried by U.S. domsats or foreign satellite systems. GTE Spacenet is therefore not clear as to what unwarranted advantage COMSAT believes will be afforded to U.S. domsats.

**Conclusion**

For the above reasons, GTE Spacenet recommends that the Commission not delete Section 25.131 in its entirety, though modification may be in order, until U.S. transborder policy can be assured through alternative mechanisms.

Respectfully submitted,

GTE SPACENET CORPORATION



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Certificate of Service

I hereby certify that on this 27th day of May, 1993, a copy of the foregoing Reply Comments of GTE Spacenet Corporation was served by first class mail, postage prepaid, on the following:

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